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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,903	02/09/2001	James K. Hawley	M 6678 HAMC	3930
423	7590	05/04/2005	EXAMINER	
HENKEL CORPORATION THE TRIAD, SUITE 200 2200 RENAISSANCE BLVD. GULPH MILLS, PA 19406			NOVOSAD, JENNIFER ELEANORE	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/780,903

**Applicant(s)**

HAWLEY, JAMES K.

**Examiner**

Jennifer E. Novosad

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 7-19 is/are rejected.
- 7) ☒ Claim(s) 3-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

This final Office action is in response to the amendment filed February 22, 2005 by which claims 1 and 12 were amended and claims 13-19 were added.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 7-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,614,288 (Bustos '288), alone.

Bustos '288 discloses a liner structure comprising a sheet (6) having a top surface (top horizontal surface, i.e., line, above 6 in Figure 2) and a bottom surface (see bottom of Figure 1) whereby the sheet is comprised of a first polymeric resin (see column 3, lines 14-15); a plurality of upwardly extending ridges (8 or 8') on the top surface of the sheet and the ridges (8 or 8') being comprised of a second polymeric resin (see column 3, lines 16-18) which has a hardness, and whereby the surface on the edges of the ridges (8 or 8') provides a coefficient of friction lower than a coefficient of friction of the polymeric resin (see column 3, lines 18-20); the bottom surface of the sheet (6) being substantially flat; the ridges (8 or 8') are straight and parallel to each other (see Figure 1); since the first resin is 100% polystyrene and the second resin has a mixture of polystyrene and silicon, the first resin is more plasticized than the second resin; the

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ridges (8) have a triangular profile; and the ridges (8) are spaced apart by a distance of about 5mm (see column 3, line 32).

The claims differ from Bustos '288 in requiring:

- (a) the sheet to be flexible (claim 1),
- (b) the sheet to be non-curling (claim 1),
- (c) the sheet to have a non-skid *bottom* surface (claim 1),
- (d) the hardness of the ridges to be more than the hardness of the first resin (claim 1) by at least 3 Shore A Hardness units (claim 12),
- (e) the first resin to comprise plasticized polyvinyl chloride (claim 8) and the second resin to comprise polyvinyl chloride (claim 9 and 10),
- (f) the sheet to have a thickness from 0.1mm to 3mm (claim 13) or 0.2mm to 3mm (claim 14) or about 0.1mm to 1mm between the ridges (claim 15),
- (g) the first resin to have a Shore A thickness of about 50 to 75 (claim 16),
- (h) the second resin to have a Shore Hardness A from about 60 to 100 (claim 17), and
- (i) the spacing between the ridges to be from about 7mm to 11mm (claim 19).

*With respect to (a)*, although Bustos '288 doesn't explicitly state that the sheet is flexible, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the sheet could be somewhat flexible, since nearly all structures have some sort of flexibility, thereby increasing usage capabilities.

*With respect to (b)*, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the sheet is non-curling since the sheet is made from polystyrene, thereby allowing for ease in use.

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*With respect to (c)*, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the sheet is non-curling since the sheet is made from polystyrene, thereby allowing increased securement and stability.

*With respect to (d)*, although Bustos '288 does not state that the ridges are harder than the first resin, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the ridges would be harder than the first resin, since the second resin contains silicone, thereby decreasing manufacturing costs.

*With respect to (e)*, although Bustos '288 does not disclose the use of polyvinyl chloride, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized polyvinyl chloride for ease in economy and manufacture.

*With respect to (f) and (i)*, although Bustos '288 does not disclose the specified dimensions, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the liner having the specified dimensions, for ease in economy, manufacture and use.

*With respect to (g) and (h)*, although Bustos '288 does not disclose the specified Shore A values, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the liner with the specified values, for increased support and stability of the liner.

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*Allowable Subject Matter*

Claims 3; and 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection. The new grounds of rejection were necessitated by the amendment reciting "have a coefficient of friction lower than a coefficient of friction of the first polymeric resin" in the last 2 lines of claim 1. It is noted that it appears that this recitation was added by applicant to overcome the Section 112, 2<sup>nd</sup> paragraph rejection set forth in the previous Office action. *However*, in so amending the claim in this way, applicant has changed the scope of the claim, since the friction of the ridges is *now* being compared to the friction of the first polymeric resin.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after


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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is 571-272-6832. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jennifer E. Novosad  
Primary Examiner  
Art Unit 3634

Jennifer E. Novosad/jen  
April 29, 2005